

TODD KIM
Assistant Attorney General
Environment and Natural Resources Division

S. LANE TUCKER
United States Attorney
District of Alaska

MARK A. NITCZYNSKI
United States Department of Justice - ENRD
Environmental Defense Section
999 18th Street; South Terrace, Suite 370
Denver, CO 80202
Phone: (303) 844-1498
Email: mark.nitczynski@usdoj.gov

ELISABETH H. CARTER
United States Department of Justice - ENRD
Environmental Defense Section
P.O. Box 7611
Washington, D.C. 20044
Phone: (202) 598-3141
Email: elisabeth.carter@usdoj.gov

Attorneys for the United States

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

NORTHERN DYNASTY MINERALS LTD.
and PEBBLE LIMITED PARTNERSHIP,

Plaintiffs,

v.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,

Defendant.

Case No. 3:24-cv-00059-SLG

RESPONSE TO NOTICE OF INTENT TO CONSOLIDATE

In response to the Court’s Notice of Intent to Consolidate, ECF 111, Defendants state that they support consolidation of the three related cases that challenge the January 2023 Final Determination of the U.S. Environmental Protection Agency Pursuant to Section 404(c) of the Clean Water Act [for the] Pebble Deposit Area, Southwest Alaska (“Final Determination”)—i.e., the instant case, *State of Alaska v. United States Environmental Protection Agency*, Case No. 3:24-cv-00084-SLG (“*State of Alaska*”), and *Iliamna Natives Ltd., et al. v. Environmental Protection Agency, et al.*, Case No. 3:24-cv-00132-SLG—for purposes of briefing and other procedures, without merging the cases into a single action, with the following provisos: (1) that the parties to the consolidated cases be subject to the protective orders that this Court entered in the instant case, ECF 86, and in the *State of Alaska* case, ECF 79; and (2) that only the parties to the instant case be permitted to participate in briefing related to the challenge to the United States Army Corps of Engineers’ April 2024 Record of Decision.¹

Furthermore, Defendants respectfully suggest that this matter, the first-filed of the three related cases, be the lead case into which the three matters would be consolidated.

Finally, Defendants also respectfully suggest that the issue of whether Plaintiffs in the three cases be permitted to file separate merits briefs should be deferred until the parties to the three cases confer regarding such merits briefing and this Court establishes a merits briefing schedule. While the Plaintiffs in the three cases may prefer to file their own merits briefs, there are likely to be significant advantages—for efficiency and saving resources of

¹ Only the Plaintiffs in this case have challenged that Corps decision. The other two related cases only include challenges to the Final Determination.

the parties and the Court—in combining some or all of Plaintiffs’ briefing regarding challenges to EPA’s Final Determination.

Respectfully submitted on October 30, 2024,
TODD KIM
Assistant Attorney General
Environment and Natural Resources Division

S. LANE TUCKER
United States Attorney
District of Alaska

/s/ Mark A. Nitzczynski
MARK A. NITCZYNSKI
United States Department of Justice - ENRD
Environmental Defense Section
999 18th Street; South Terrace, Suite 370
Denver, CO 80202
Phone: (303) 844-1498 (Nitzczynski)
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